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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/599,278	07/09/2008	Georg Schafer	ICB0276	6439
24203	7590	02/22/2010	EXAMINER	
GRIFFIN & SZIPL, PC SUITE PH-1 2300 NINTH STREET, SOUTH ARLINGTON, VA 22204			LEON, EDWIN A	
			ART UNIT	PAPER NUMBER
			2833	
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/599,278	<b>Applicant(s)</b> SCHAFFER, GEORG	
	<b>Examiner</b> EDWIN A. LEON	<b>Art Unit</b> 2833	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 12/8/09.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 10-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 12 and 13 is/are allowed.
- 6) ☒ Claim(s) 10, 11 and 14-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                    | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on December 8, 2009 has been entered.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 10-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Ito (U.S. Patent No. 4,126,796). With regard to Claim 10, Ito discloses (in Fig. 1b) a control device for a timepiece (Column 1, Lines 6-7) for activating a first mechanism (7), the timepiece comprising a case (combination of 1, 6, and 9) delimiting a volume, the device including: a control lever (2) located outside the volume of the case and able to

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be actuated by a user; and an actuating lever (lever that contains member 5) located inside the volume of the case and meshed, indirectly (via the case (combination of 1, 6, and 9)) with the first mechanism, wherein the control lever and the actuating lever are connected to each other via a rotating connecting mechanism (middle rod between 2 and lever that contains member 5) able to rotate about a general axis of symmetry, wherein the control lever and the actuating lever extend in two parallel and distinct planes.

With regard to Claim 11, Ito discloses (in Fig. 1b) the control lever and the actuating lever are rigidly connected to each other by means of a stem (middle rod between 2 and lever that contains member 5).

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ito (U.S. Patent No. 4,126,796) in view of Eray (U.S. Patent No. 5,751,668). Regarding claim 14, Kitai discloses the claimed invention except for the stem has a groove that houses a sealing gasket.

Eray discloses a push button comprising a stem [10] comprises a groove [12] intended to receive an O-ring sealing gasket [30].

Since Ito and Eray are both from the same field of endeavor, the purpose disclosed by Eray would have been recognized in the pertinent art of Kitai.

Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to incorporate a sealing gasket as taught by Eray with that of Ito for the predictable purpose of sealing the stem.

6. Claim 15-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ito (U.S. Patent No. 4,126,796) in view of Kitai (U.S. Patent No. 3,780,525). Ito discloses substantially the claimed invention except for the actuating lever cooperates with a corrector lever that is meshed with the first mechanism, and the first mechanism is an indicator mechanism, the corrector lever exerts an elastic return force on the actuating lever, the control lever is embedded in a hollow arranged in a horn of the case.

Kitai teaches (in Figs. 1-4) a similar device having the actuating lever cooperates with a corrector lever [37] that is meshed with the first mechanism [20 and 25], and the first mechanism is an indicator mechanism [column 3, line 14], the corrector lever exerts an elastic return force on the actuating lever [as illustrated in figure 5], the control lever is embedded in a hollow arranged in a horn of the case [as shown in figures 1 and 2].

Therefore, it would have been obvious to one with ordinary skill in the art at the time the invention was made to use the device of Ito in a device including the actuating lever cooperates with a corrector lever that is meshed with the first mechanism, and the

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first mechanism is an indicator mechanism, the corrector lever exerts an elastic return force on the actuating lever, the control lever is embedded in a hollow arranged in a horn of the case as taught in Kitai in order to allow the user of the watch to control and adjust a timepiece more effectively.

7. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ito (U.S. Patent No. 4,126,796). Regarding claim 18, Ito discloses the claimed invention except for the explicit orientation of the axis of symmetry extends perpendicularly or parallel to a mid-plane in which there extends a movement of a timepiece.

Still, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to have the axis of symmetry extends perpendicularly or parallel to a mid-plane in which there extends a movement of a timepiece for the predictable result of minimizing the thickness of the device, since it has been held that rearranging parts of an invention involves only routine skill in the art. In re Japikse, 86 USPQ 70.

### ***Allowable Subject Matter***

8. Claims 12-13 are allowed for the reasons stated in the Office Action of September 4, 2008.

### ***Response to Arguments***

9. Applicant's arguments filed December 8, 2009 have been fully considered but they are not persuasive. In response to Applicant's arguments that the Ito reference does not show an actuating lever located inside the volume of the case and meshed, directly or indirectly with the first mechanism, Applicant's attention is directed to Fig. 1b in which Ito discloses an actuating lever (lever that contains member 5) located inside the volume of the case (combination of 1, 6, and 9) and meshed, indirectly (via the case (combination of 1, 6, and 9)) with the first mechanism. Applicant is reminded that the term meshed means "interconnected, engaged or interlocked". Applicant is also reminded that the claim, as amended, calls for a lever that can be indirectly meshed. The Examiner acknowledges that the lever and first mechanism are not directly meshed since no parts of the lever or first mechanism touch. However, the case (combination of 1, 6, and 9), as defined by the Examiner, and the fact that Fig. 1b as a whole is part of a motor and not two separate machines, allows the lever and the first mechanism to be mechanically connected together in a single motor via the rest of the parts of the assembly (e.g. the case). Therefore, it is the Examiner's opinion that the Ito reference meets the amended claims in their broadest interpretation.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208

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USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

### ***Conclusion***

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Edwin A. León whose telephone number is (571) 272-2008. The examiner can normally be reached on Monday - Friday 10:00-6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Renee Luebke can be reached on 571-272-2009. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Edwin A. Leon/  
Primary Examiner  
AU 2833